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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 O'M AND ASSOCIATES, LLC, an  
12 Illinois limited liability company, d/b/a  
13 O'Malley and Associates; PRESERVE  
14 CAPITAL, LLC, an Illinois limited  
liability company; and MBM  
SETTLEMENTS, LLC, an Illinois limited  
liability company,

15 Plaintiffs,

16 vs.

17 BRENDAN K. OZANNE, BRIAN C.  
18 DAWSON, AND DAWSON &  
19 OZANNE, a California general  
partnership, as escrow agent; MATTHEW  
20 STOEN, individually and as manager and  
agent for KODIAK FAMILY, LLC, a  
21 Nevada limited liability company;  
KODIAK FAMILY, LLC, individually  
and as agent for XYZ CORPORATION,

22 Defendants.  
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CASE NO. 10-CV-2130 H (RBB)

**ORDER DENYING  
DEFENDANT MATTHEW  
STOEN'S MOTION TO  
DISMISS WITHOUT  
PREJUDICE**

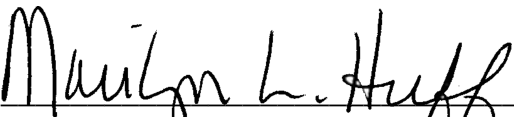
[Doc. No. 104]

24 On January 31, 2011, Defendant Matthew Stoen ("Stoen") filed a motion to dismiss  
25 Counts I, III, IV, V, VI, VIII, and IX of Plaintiffs' complaint. (Doc. No. 104.) On February  
26 23, 2011, Plaintiffs filed a motion for leave to amend complaint in lieu of response to the  
27 motion to dismiss. (Doc. No. 23.) On February 25, 2011, the Court, recognizing that leave  
28 to amend is freely granted, issued a tentative order stating it was inclined to grant the motion

1 for leave to amend the complaint, which would render Defendant Stoen's motion to dismiss  
2 as moot. (Doc. No. 113.) The Court directed Defendants to file any opposition to the tentative  
3 order by March 4, 2011. (Id.) Defendants did not file any opposition. On March 8, 2011, the  
4 Court adopted its tentative order and granted Plaintiff's motion for leave to amend the  
5 complaint. (Doc. No. 121.) In light of granting leave to file an amended complaint, the Court  
6 DENIES WITHOUT PREJUDICE Defendant Stoen's motion to dismiss the original  
7 complaint.

8 **IT IS SO ORDERED.**

9 Dated: March 15, 2011

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11 MARILYN L. HUFF, District Judge  
12 UNITED STATES DISTRICT COURT  
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